IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.5224 of 2006
DATE OF ORDER: 18.1.2007

Vijay Lakshmi & Another

...Petitioner(s)

Versus

Shagan Lal & Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Sandeep Khunger, Advocate.

Mr. Gorav Chopra, Advocate.

Mr. Anurag Chopra, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 31.7.2006 passed by Civil Judge(Jr.Divn.), Abohar whereby request of the petitioners for taking the photographs of the signatures of Madan Lal and Om Parkash on the affidavits dated 3.3.1967 and 7.3.1967 and getting those compared from handwriting expert with admitted signatures was declined.

The case was quite old one.

Trial Court had observed that this evidence could not be allowed in rebuttal evidence.

On behalf of the petitioners, it is argued that in fact amendment in the plaint was allowed vide order of the Court dated 13.12.2000. Plaintiff had already completed the evidence. Respondent had filed revision petition against that order along with amendment, which was dismissed on

29.4.2005 by order of this Court and therefore plaintiffs could not earlier lead evidence, which now plaintiffs wanted to lead.

On behalf of the respondents, it is argued that the affidavits were of the year 1967 and the same did not confer any right specially when these are not registered and were in the nature of relinquish deed. It is argued that the application was made now after one year of the dismissal of the revision petition by the High Court. On behalf of the respondents, a judgment of this Court has been relied on reported in Surjit Singh and Others v. Jagtar Singh and Others, 2006(4) Law Herald, 3199 that when the onus was on the plaintiff then evidence should not be allowed in rebuttal.

I have gone through the facts of the case and heard counsel for the parties. In the interest of justice, request of the plaintiff-petitioners should have been allowed. Respondents-defendants could be burdened with costs.

As such, petition is allowed subject to payment of Rs.2000/- as costs. However, if the petitioners want to get the signatures compared from the handwriting expert in Court then the petitioners shall supply copy of the report of handwriting expert within a period of one month from today and then shall avail of one opportunity for leading evidence. Respondents shall be, however, given a right of leading rebuttal evidence if so desired. Trial Court shall thereafter make efforts to dispose of the case expeditiously.

January 18, 2007 (M.M. AGGARWAL)
manoj JUDGE